



CITY OF West Linn

PLANNING MANAGER DECISION

DATE: January 12, 2016

FILE NO.: WRG-15-04 MIS-15-07

REQUEST: Request for a Flood Management Area (FMA) permit and Willamette and Tualatin River Protection (WRG) permit for an Accessory Dwelling Unit (ADU) at 2280 Volpp Street

PLANNER: Peter Spir, Associate Planner

_____ Planning Manager

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GENERAL INFORMATION

OWNER:	Scott Bradford 2280 Volpp Street West Linn, OR 97068
APPLICANT:	Jon Bradford 2280 Volpp Street West Linn, OR 97068
SITE LOCATION:	2280 Volpp Street
SITE SIZE:	24,845 square feet
LEGAL DESCRIPTION:	Assessor's Maps and Tax Lot – 31E02AC 1203
COMP PLAN DESIGNATION:	Low Density Residential
ZONING:	R-10, Single-Family Residential Detached
APPROVAL CRITERIA:	Community Development Code (CDC) Chapters 11, 27, and 28
120-DAY RULE:	The application was declared complete on December 7, 2015. The 120-day period ends on March 25, 2016.
PUBLIC NOTICE:	Notice was mailed to property owners within 500 feet of the subject property and all Neighborhood Associations on December 10, 2015. A sign was placed on the property on December 15, 2015. The notice was also posted on the City's website. Therefore, public notice requirements of CDC Chapter 99 have been met.

EXECUTIVE SUMMARY

A portion of the property 2280 Volpp Street is located within the 100-year floodplain; therefore, a Flood Management Area permit is required per CDC Chapter 27 to construct an ADU. A WRG permit is also required because the property falls within the WRG boundary. The property is zoned R-10 and located in the Willamette Neighborhood.

The proposed ADU comprises 996 square feet in a single story design with a foundation designed by a licensed professional engineer. The applicant has provided an elevation certificate for the proposed building footprint and will provide another, once the building is in place, to demonstrate that the finished floor will be at least one foot above the base flood elevation of 75.1 feet.

The applicable CDC Chapters include:

- Chapter 11, Single-Family Residential Detached R-10
- Chapter 27, Flood Management Areas
- Chapter 28, Willamette and Tualatin River Protection
- Chapter 34, Accessory Structures, Accessory Dwelling Units and Accessory Uses

Public comments:

Staff received no written comments.

DECISION

The Planning Manager (designee) approves this application (WRG-15-04 MIS-15-07), based on: 1) the findings submitted by the applicant, which are incorporated by this reference, 2) supplementary staff findings included in the Addendum below, and 3) the addition of conditions of approval below. With these findings, the applicable approval criteria are met. The conditions are as follows:

1. Elevation Certificate. The applicant shall submit a signed Elevation Certificate to the Planning Department to demonstrate that all the structural elements of the finished floor will be at least one foot above the base flood elevation of 75.1 feet before the city will approve a framing/installation permit for the ADU.
2. Floodplain displacement. The applicant's engineer shall provide a "no rise" certification that confirms that the proposed design has adequate venting ("one for one") that automatically equalizes flood levels so that encroachment into the floodway fringe will not result in a significant increase in the flood levels.

3. Foundation Wall Design. The applicant shall construct the foundation per the Engineer's stamped plan.
4. Private Utility Service. The applicant will be required to upgrade the water meter and line to ¾ inch size (depending on fixture count) and the sanitary sewer private line will be increased to four inches prior to occupancy permits being issued.

The provisions of the Community Development Code Chapter 99 have been met.

Peter Spir

Peter Spir, Associate Planner

January 12, 2016

DATE

Appeals to this decision must be filed with the West Linn Planning Department within 14 days of the mailing date listed below. The cost of an appeal is \$400. The appeal must be filed by an individual who has established standing by submitting comments prior to the date identified in the public notice. Appeals will be heard by City Council.

Mailed this 12th day of January, 2016.

Therefore, the 14-day appeal period ends at 5 p.m., on January 26, 2016.

**ADDENDUM
APPROVAL CRITERIA AND FINDINGS
WRG-15-04 MIS-15-07**

Staff recommends adoption of the findings for approval contained within the applicant's submittal, with the following additions:

CHAPTER 11, SINGLE-FAMILY RESIDENTIAL DETACHED R-10

11.030 Permitted Uses

The following are uses permitted outright in this zoning district

1. *Single-family detached residential unit.*

Staff Finding 1: The property contains one single-family detached residential home which is permitted per this criteria. The purpose of the application is to construct/install an Accessory Dwelling Unit (ADU) which is allowed per 11.040 below. The criterion is met.

11.040 ACCESSORY USES

Accessory uses are allowed in this zone as provided by Chapter [34](#) CDC.

Staff Finding 2: The applicant proposes to place an ADU on the property. ADUs are permitted in this R-10 zone consistent with the provisions and design standards of CDC Chapter 34.

11.070 Dimensional Requirements, Uses Permitted Outright and Uses Permitted Under Prescribed Conditions

Except as may be otherwise provided by the provisions of this code, the following are the requirements for uses within this zone:

1. *The minimum lot size shall be 10,000 square feet for a single-family detached unit.*
(...)
5. *Except as specified in CDC [25.070](#)(C) (1) through (4) for the Willamette Historic District, the minimum yard dimensions or minimum building setback area from the lot line shall be:*
 - a. *For the front yard, 20 feet; except for steeply sloped lots where the provisions of CDC [41.010](#) shall apply.*
 - b. *For an interior side yard, seven and one-half feet.*
 - c. *For a side yard abutting a street, 15 feet.*
 - d. *For a rear yard, 20 feet.*

Staff Finding 3: The property comprises 24,845 square feet which exceeds the minimum lot size of the R-10 zone. The applicant proposes to place the ADU 25 feet from 8th Street which

meets the side street setback of 15 feet. The rear setback will be 80 feet and the side setback will be 65 feet. The ADU will be behind the principal structure/house, 105 feet from the front property line.

6. The maximum building height shall be 35 feet, except for steeply sloped lots in which case the provisions of Chapter 41 CDC shall apply.

Staff Finding 4: The proposed ADU will be 14 feet tall from grade which meets the 35 foot height requirements of the R-10 zone and the 18 foot height limit of Chapter 34: ADUs. These criteria are met.

7. The maximum lot coverage shall be 35 percent.

Staff Finding 5: The lot is 24,845 square feet. The existing house (3,265) and ADU (996) have a combined square footage of 4,361 square feet for a lot coverage of 17.5 percent, which is below the maximum 35 percent allowed. The criterion is met.

(...)

9. The floor area ratio shall be 0.45. Type I and II lands shall not be counted toward lot area when determining allowable floor area ratio, except that a minimum floor area ratio of 0.30 shall be allowed regardless of the classification of lands within the property. That 30 percent shall be based upon the entire property including Type I and II lands. Existing residences in excess of this standard may be replaced to their prior dimensions when damaged without the requirement that the homeowner obtain a non-conforming structures permit under Chapter 66 CDC.

(...)

Staff Finding 6: The lot is 24,845 square feet so the FAR is 11,180 square feet (24,845 X .45). The habitable space of the house and proposed ADU will comprise 4,361 square feet which is below the maximum FAR. The criterion is met.

34.030 ACCESSORY DWELLING UNITS (ADUs)

A. An accessory dwelling unit (ADU) may be allowed in conjunction with an existing primary single-family dwelling by conversion of existing space inside the primary dwelling; by means of an addition to an existing dwelling; by means of an addition as an accessory structure; or by converting or adding to an existing accessory structure, such as a garage, on the same lot with an existing primary dwelling, when the following conditions are met:

1. One off-street parking space for the ADU shall be provided in addition to the required parking for the primary dwelling except in those cases where the abutting street has a paved width of 28 feet or more and allows on-street parking.
2. Public services can serve both dwelling units.

3. *The number of occupants is limited to no more than one family as defined by the Community Development Code.*
4. *The ADU does not exceed one bedroom and has an area between 250 and 1,000 square feet. If the ADU is located in an accessory structure, then it shall not exceed 30 percent of the gross square footage of the primary dwelling, except that an ADU may be a minimum of 250 square feet in size regardless of the size of the primary dwelling. No more than one ADU is allowed.*
5. *The ADU is in conformance with the setback and lot coverage requirements of the underlying zone.*
6. *The following minimum area standards shall be met: 1 person – 250 square feet/2 persons – 500 square feet*
7. *Existing accessory structures such as large workshops, offices, garages, etc., constructed prior to January 2000, that exceed dimensional standards prescribed above for ADUs may be converted into ADUs in the future so long as the occupied or inhabited area is restricted to less than 1,000 square feet. Existing structures are not required to meet the design standards of subsections (B) (1) through (9) of this section, but shall conform to them to the greatest extent feasible.*

Staff Finding 7: Single family homes and ADU's are required to have a minimum of one off street parking space each. The existing house already has five paved off street parking spaces which exceed the required two spaces for the house and ADU combined. Thus, the criteria is met.

Regarding public services, the ADU will be served by the extension of utilities from the principal residence. Per the City Building Department, the house is currently served by a private 5/8ths inch water meter which must be upgraded to ¾ inch, depending on the fixture count. The private sanitary sewer line will need to be upgraded from three inches to a four inch line. These upgrades will need to be completed prior to issuance of an occupancy permit per condition of approval 4.

There is a public six inch water line plus a public sanitary sewer line adjacent to the property in Volpp Street right of way which provides sufficient water supply and sanitary sewer capacity.

The ADU will have one bedroom and comprises 996 square feet which is within the allowable 250-1,000 square foot range.

The ADU meets the dimensional and setback standards of the underlying R-10 zone (see Finding No. 3). This ADU is a new structure and therefore the provisions of (A) (7) do not apply. The criteria are met.

B. Design standards for both attached and detached ADUs are as follows:

1. *Exterior finish materials. The exterior finish material must be the same, or visually match in type, size, and placement, the exterior finish material of the primary dwelling.*
2. *Roof pitch. The roof pitch must be the same as the predominant roof pitch of the primary dwelling.*
3. *Trim. Trim on edges of elements on the addition must be the same in type, size, and location as the trim used on the rest of the primary dwelling.*
4. *Windows. Windows must match those in the primary dwelling in proportion (relationship of width to height). Second-floor windows on the ADU should be placed and sized so as to achieve a reasonable amount of privacy for the abutting property owner(s).*
5. *Eaves. Eaves must project from the building walls the same distance as the eaves on the rest of the primary dwelling.*
6. *Setbacks. The detached ADU shall be at least 10 feet behind the front building line of the primary dwelling so as to maintain the primary status of the single-family home. The only exception allowed shall be for an ADU which is located above a detached garage, in which case, the setback of the ADU may be the same as that of the garage below.*
7. *Height. The maximum height allowed for a detached ADU is 18 feet (as measured using Building Codes methodology). Attached ADUs may be higher than 18 feet, but cannot exceed the height of the existing primary dwelling.*
8. *The main exterior entrance of the ADU shall be located on either the rear or side of the ADU so that the main entrance to the primary dwelling will not be in competition with the entrance to the ADU.*
9. *Exterior stairs serving the ADU shall not face the front property line. (Ord. 1463, 2000)*

Staff Finding 8: The principal structure/house is single storied with an exterior finish of Z-brick and wood or facsimile siding. The ADU has similar scale with have wood facsimile siding. The roof of the principal structure/house and ADU have a similar low pitch.

The windows of the ADU are “one over ones” similar to the principal structure/house. The ADU has eaves similar to the principal structure/house. The ADU will be 24 feet from the nearest property line which ensures that the three foot eave setback will be satisfied. The ADU will be behind the principal structure/house. The ADU is 14 feet tall which meets the 18 foot limit. The door to the ADU will face 8th Street and will not compete with the entry to the principal structure/house which faces Volpp Street. Exterior stairs on the ADU are not oriented towards Volpp Street (the front property line). The criteria are met.

CHAPTER 27, FLOOD MANAGEMENT AREAS

27.060 Approval Criteria

A. Development, excavation, and fill shall be performed in a manner to maintain or increase flood storage and conveyance capacity and not increase design flood elevations.

Staff Finding 9: The proposed ADU will have finished floor elevations more than one foot above the base flood elevation of 75.1 feet as required by the CDC 27.080.(A). The foundations for the proposed ADU are below the BFE. The perimeter skirting will contain the required openings/louvers to allow for the conveyance of floodwater and to equalize hydrostatic flood force on the exterior walls. The applicant has provided engineered foundation plans. The Engineer's plan must be modified to declare that the openings will be equipped with screens, louvers or other covers that allow for the automatic entry and exit of floodwaters per Condition of Approval 4. The proposal is not expected to have any impact on the flood storage capacity or increase design flood elevations (see PD-4 Applicant's Submittal). This criterion is met by condition (COA 4). Please see also Staff Findings 15 and 16.

B. No net fill increase in any floodplain is allowed. All fill placed in a floodplain shall be balanced with an equal amount of soil material removal. Excavation areas shall not exceed fill areas by more than 50 percent of the square footage. Any excavation below the ordinary high water line shall not count toward compensating for fill.

Staff Finding 10: The fill amount will be very small since the "fill" comprises the perimeter skirting and the 15 concrete block bearing points. This criteria is satisfied by the condition of approval 2 that the applicant's engineer provide a written "no rise" determination.

C. Excavation to balance a fill shall be located on the same lot or parcel as the fill unless it is not reasonable or practicable to do so. In such cases, the excavation shall be located in the same drainage basin and as close as possible to the fill site, so long as the proposed excavation and fill will not increase flood impacts for surrounding properties as determined through hydrologic and hydraulic analysis.

Staff Finding 11: The applicant shall provide a written "no rise" determination that confirms that adequate venting ("one for one") equalizes flood levels. Thus, encroachment into the floodway fringe will not result in a significant increase in the flood levels. This criterion is met by condition of approval 2.

(...)

F. Prohibit encroachments, including fill, new construction, substantial improvements, and other development in floodways unless certification by a professional civil engineer licensed to practice in the State of Oregon is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

Staff Finding 12: The subject property and proposed additions are located in the Special Flood Hazard Area (100-year floodplain), but outside of the floodway. This criteria does not apply.

G. All proposed improvements to the floodplain or floodway which might impact the flood-carrying capacity of the river shall be designed by a professional civil engineer licensed to practice in the State of Oregon.

Staff Finding 13: The stamped and signed foundation plans for the ADU have been designed by Mark Ellingson, a registered professional civil engineer. This criterion is met.

27.070 Construction Materials and Methods

(...)

27.080 Residential Construction

A. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to at least one foot above the base flood elevation.

Staff Finding 14: The proposed additions will have all structural elements of the finished floor at least one foot above the base flood elevation of 75.1 feet. The applicant shall submit an Elevation Certificate showing finished construction elevations prior to occupancy. This criterion is met by condition of approval 1.

B. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must be certified by either a professional civil engineer or an architect licensed to practice in the State of Oregon, and must meet or exceed the following minimum criteria:

1. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

Staff Finding 15: Mark Ellingson, a registered professional civil engineer, provided stamped and signed foundation plans for the ADU. The foundation is 42' X 23'4" or 976 square feet. This translates into a requirement for a minimum of 976 square inches in openings. Mark Ellingson's sheet S-1 detail shows 14 X 8" X 14" skirting vents which yields 1,568 square inches of venting. This amount exceeds the minimum standard. The openings must be equipped with screens, louvers or other covers that allow for the automatic entry and exit of floodwaters. The criteria is met by condition of approval 2 and 3.

2. The bottom of all openings shall be no higher than one foot above grade.

Staff Finding 16: According to the engineer's foundation plans, the bottom of all openings shall be no higher than six inches above grade. This criterion is met.

(...)

Chapter 28

WILLAMETTE AND TUALATIN RIVER PROTECTION

28.110 APPROVAL CRITERIA

No application for development on property within the protection area shall be approved unless the decision-making authority finds that the following standards have been met or can be met by conditions of approval. The development shall comply with the following criteria as applicable:

A. Development: All sites.

1. Sites shall first be reviewed using the HCA Map to determine if the site is buildable or what portion of the site is buildable. HCAs shall be verified by the Planning Director per CDC [28.070](#) and site visit. Also, "tree canopy only" HCAs shall not constitute a development limitation and may be exempted per CDC [28.070](#)(A). The municipal code protection for trees and Chapters 55 and 85 CDC tree protection shall still apply.

2. HCAs shall be avoided to the greatest degree possible and development activity shall instead be directed to the areas designated "Habitat and Impact Areas Not Designated as HCAs," consistent with subsection (A) (3) of this section.

3. If the subject property contains no lands designated "Habitat and Impact Areas Not Designated as HCAs" and development within HCA land is the only option it shall be directed towards the low HCA areas first, then medium HCA areas and then to high HCA as the last choice. The goal is to, at best, avoid or, at least, minimize disturbance of the HCAs. (Water-dependent uses are exempt from this provision.)

4. All development, including exempted activities of CDC [28.040](#), shall have approved erosion control measures per Clackamas County Erosion Prevention and Sediment Control Planning and Design Manual, rev. 2008, in place prior to site disturbance and be subject to the requirements of CDC [32.070](#) and [32.080](#) as deemed applicable by the Planning Director.

B. Single-family or attached residential. Development of single-family homes or attached housing shall be permitted on the following HCA designations and in the following order of preference with "a" being the most appropriate and "d" being the least appropriate:

a "Habitat and Impact Areas Not Designated as HCAs"

b Low HCA

c Moderate HCA

d High HCA

1. Development of land classifications in "b," "c" and "d" shall not be permitted if at least a 5,000-square-foot area of buildable land ("a") exists for home construction, and associated impermeable surfaces (driveways, patios, etc.).

2. If 5,000 square feet of buildable land ("a") are not available for home construction, and associated impermeable surfaces (driveways, patios, etc.) then combinations of land classifications ("a," "b" and "c") totaling a maximum of 5,000 square feet shall be used to avoid

intrusion into high HCA lands. Development shall emphasize area “a” prior to extending construction into area “b,” then “c” lands.

3. The underlying zone FAR shall also apply as well as allowable lot coverage.

4. Development may occur on legal lots and non-conforming lots of record located completely within the HCA areas or that have the majority of the lot in the HCA to the extent that the applicant has less than 5,000 square feet of non-HCA land.

Development shall disturb the minimum necessary area to allow the proposed use or activity, shall direct development to any available non-HCA lands and in any situation shall create no more than 5,000 square feet of impervious surface. (Driveways, paths, patios, etc., that are constructed of approved water-permeable materials will not count in calculating the 5,000-square-foot lot coverage.) The underlying zone FAR and allowable lot coverage shall also apply and may result in less than 5,000 square feet of lot coverage.

When only HCA land is available then the structure shall be placed as far away from the water resource area or river as possible. To facilitate this, the front setback of the structure or that side which is furthest away from the water resource or river may be reduced to a five-foot setback from the front property line without a variance. Any attached garage must provide a 20-foot by 20-foot parking pad or driveway so as to provide off-street parking exclusive of the garage. The setbacks of subsection C of this section shall still apply.

5. Driveways, paths, patios, etc., that are constructed of approved water-permeable materials will be exempt from the lot coverage calculations of subsections (B) (1) through (4) of this section and the underlying zone.

6. Table showing development allowed by land classification:

Development Allowed

Non-HCA (“a”)	Yes
Low-Medium HCA (“b” and “c”)	Yes, if less than 5,000 sq. ft. of non-HCA land available. Avoid “d.”
High HCA (“d”)	Yes, but only if less than 5,000 sq. ft. of “a,” “b” and “c” land available.
Non-conforming Structures (structures on HCA land)	Yes: vertically, laterally and/or away from river. Avoid “d” where possible.

(The underlying zone FAR and allowable lot coverage shall also apply.)

Staff Finding 17: None of this property is within an HCA. The City’s Mapoptix mapping system shows that the entire parcel is “Allow Development” or non-HCA. Therefore, this criteria does not apply.

C. Setbacks from top of bank.

1. Development of single-family homes or attached housing on lands designated as "Habitat and Impact Areas Not Designated as HCAs" shall require a structural setback of 15 feet from any top of bank that represents the edge of the land designated as "Habitat and Impact Areas Not Designated as HCAs."

(....)

Staff Finding 18: The nearest HCA will be 113 feet away, south of Volpp Street, which exceeds the required 15 foot setback. The criteria is met.

(....)

E. Hardship provisions and non-conforming structures.

1. For the purpose of this chapter, non-conforming structures are existing structures whose building footprint is completely or partially on HCA lands.

(....)

Staff finding 19: There are no HCAs on the property so there is no need for a hardship. These criteria do not apply.

F. Access and property rights.

- 1. Private lands within the protection area shall be recognized and respected.*
- 2. Where a legal public access to the river or elsewhere in the protection area exists, that legal public right shall be recognized and respected.*

(....)

Staff finding 20: The ADU site is 340 feet from the river and constitutes no impediment to access to, or along, the river. The criteria is met.

H. Partitions, subdivisions and incentives.

- 1. When dividing a property into lots or parcels, an applicant shall verify the boundaries of the HCA on the property.*
- 2. Applicant shall partition or subdivide the site so that all lots or parcels have a buildable site or envelope available for home construction located on non-HCA land or areas designated "Habitat and Impact Areas Not Designated as HCAs" per the HCA Map.*

(....)

Staff Finding 21: No subdivision or partition is proposed so this criteria is not applicable.

I. Docks and other water-dependent structures.

1. *Once the preference rights area is established by DSL, the property owner identifies where the water-dependent use will be located within the authorized portion of the preference rights area. The water-dependent use should be centered or in the middle of the preference rights/authorized area or meet the side yard setbacks of the underlying zone.*

(....)

Staff Finding 22: No dock is proposed so this criteria is not applicable.

L. Roads, driveways, utilities, or passive use recreation facilities. Roads, driveways, utilities, public paths, or passive use recreation facilities may be built in those portions of HCAs that include wetlands, riparian areas, and water resource areas when no other practical alternative exists but shall use water-permeable materials unless City engineering standards do not allow that. (...)

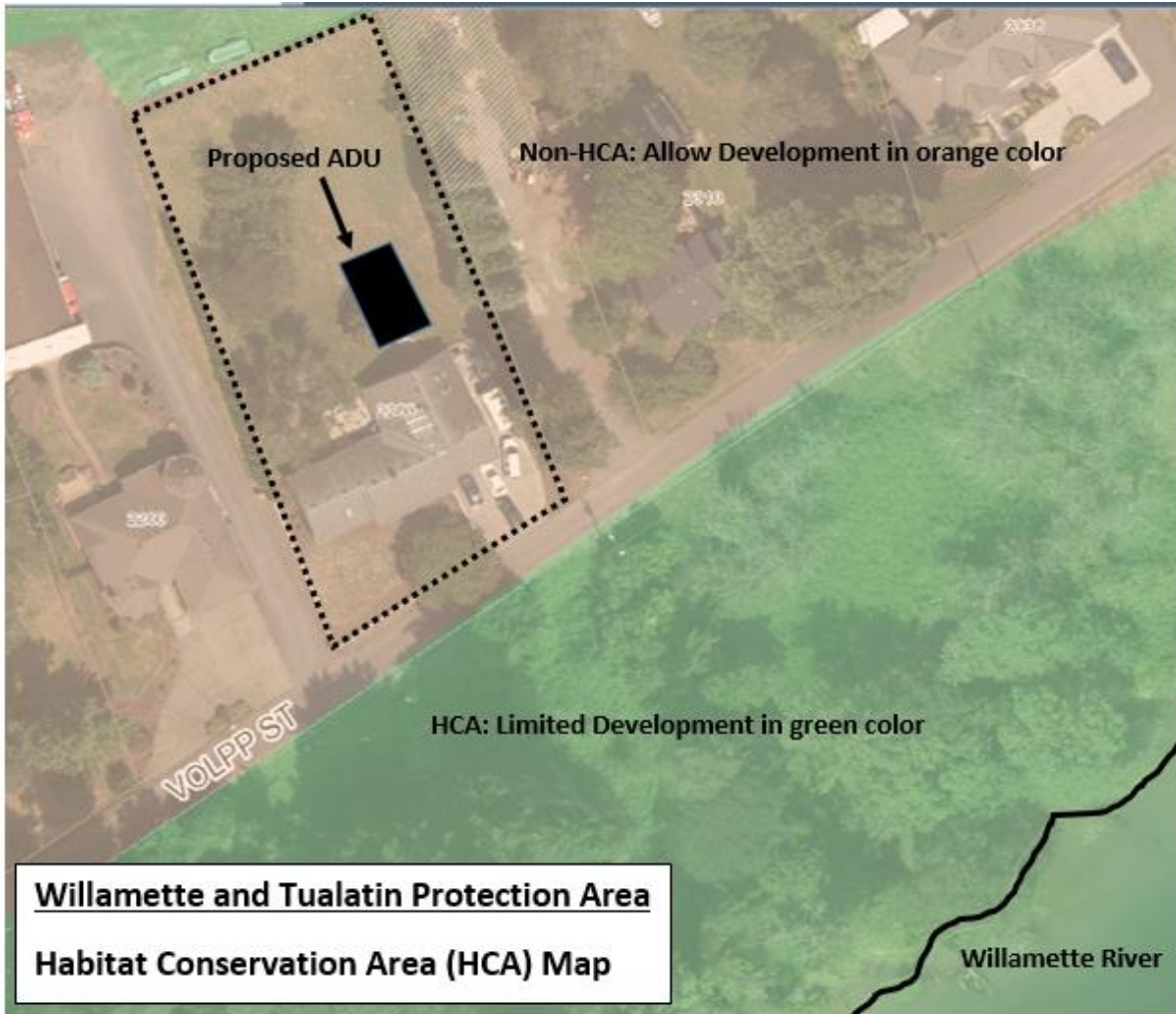
Staff Finding 23: There are no HCAs with wetlands on this ADU site so this criteria is not applicable.

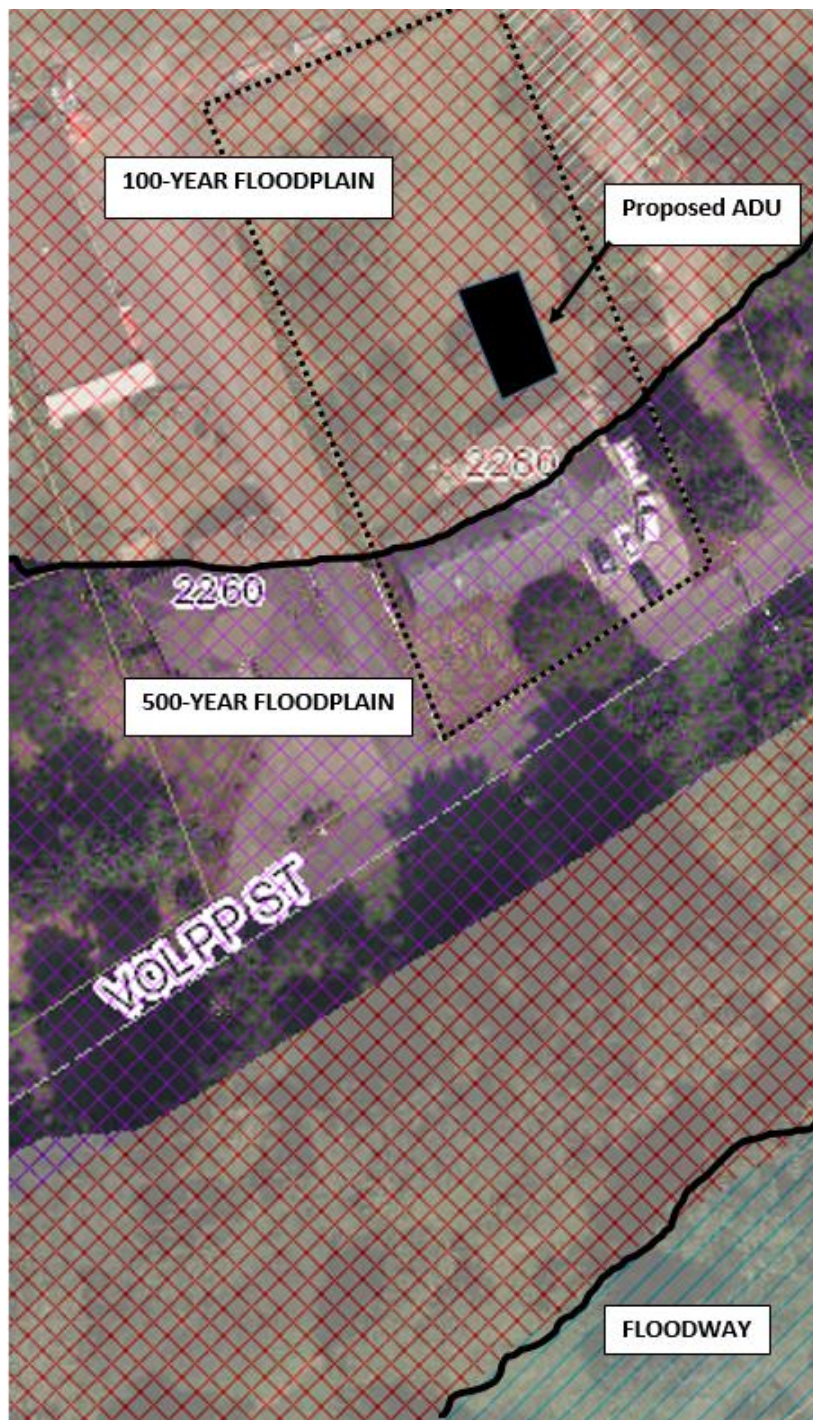
M. Structures. All buildings and structures in HCAs and riparian areas, including all exterior mechanical equipment, should be screened, colored, or surfaced so as to blend with the riparian environment. Surfaces shall be non-polished/reflective or at least expected to lose their luster within a year. In addition to the specific standards and criteria applicable to water-dependent uses (docks), all other provisions of this chapter shall apply to water dependent uses, and any structure shall be no larger than necessary to accommodate the use.

Staff Finding 24: No development is proposed within an HCA or within a riparian area so this criteria is not applicable.

N. Water-permeable materials for hardscapes.... O. Signs and graphics.... P. Lighting.... Q. Parking... R. Views.... S. Aggregate deposits.... T. Changing the landscape/grading.... U. Protect riparian and adjacent vegetation.

Staff Finding 25: All above sections relate to development in an HCA and/or adjacent to the Willamette River. The ADU site is not in an HCA and is 340 feet from the river. Therefore these criteria do not apply.





PD-1 AFFADAVIT OF NOTICE

PD-2 NOTICE MAILING PACKET

PD-3 COMPLETENESS LETTER

PD-4 APPLICANT'S SUBMITTAL